

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-397-C - ORDER NO. 98-70
FEBRUARY 3, 1998

IN RE: Application of SCSI, Inc. for a) ORDER
Certificate of Public Convenience and) APPROVING
Necessity to Provide Local Telecommuni-) CERTIFICATE
cations Services within the State of) TO PROVIDE
South Carolina.) LOCAL SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of SCSI, Inc. ("SCSI" or "the Company"). The Application requests that the Commission issue a Certificate of Public Convenience and Necessity authorizing SCSI to provide local exchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated October 16, 1997, the Commission's Executive Director instructed SCSI to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. SCSI complied with this instruction

and provided the Commission with proof of publication of the Notice of Filing and Hearing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on January 7, 1998, at 11:30 a.m. in the Commission's Meeting Room. The Honorable Guy Butler, Chairman, presided at the hearing. Pursuant to S.C. Code Ann. §58-9-1010 (1976), the Commission authorized the Chairman and other available Commissioners to hear the matter concerning SCSI's Application. SCSI was represented by John F. Beach, Esquire. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. SCTC did not appear at the hearing.

Prior to the hearing, SCSI and the SCTC executed a Stipulation dated January 5, 1998. The Stipulation was filed with the Commission prior to the hearing in this matter. As a result of the Stipulation, SCTC withdrew its opposition to SCSI's Application. The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to SCSI if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) SCSI agrees that any Certificate granted by the Commission will authorize SCSI to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;
- (3) SCSI agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;
- (4) SCSI agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until SCSI provides such rural

incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. SCSi also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

- (5) SCSi agrees that if, after SCSi gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then SCSi will not provide service to any customer located within the service area in question without prior and further Commission approval;
- (6) SCSi acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;
- (7) SCSi and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and
- (8) SCSi agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No.

96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and SCSi, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the hearing. We therefore approve the stipulation.

In support of its Application, SCSi presented Brian Connelly, President of SCSi, to testify. The purpose of Mr. Connelly's testimony was (1) to present evidence on the financial, managerial, and technical abilities of SCSi to provide local exchange service to locations within South Carolina and (2) to discuss the services which SCSi proposes to offer.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, SCSi's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by SCSi should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that SCSi possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). Mr. Connelly testified that SCSi has sufficient technical,

financial, and managerial resources and ability to provide the telecommunications services for which SCSI seeks authority. According to Mr. Connelly, SCSI intends to offer customers a competitive alternative to the local exchange telephone companies for a full range of voice and data telecommunications services. SCSI intends to operate as a full-service telecommunications provider initially offering service in metropolitan areas. Service will be provided 24 hours per day, seven days per week. Initially SCSI will rely heavily on resale of existing local exchange company services and facilities, but as its customer base increases, SCSI may build, lease, or purchase facilities as necessary to provide service to its customers. As yet, SCSI has not begun negotiating with local exchange companies for interconnection.

Mr. Connelly stated that SCSI's management team has considerable experience in management, marketing, network operations, customer service, and financial and accounting issues. As for his own qualifications, Mr. Connelly stated that he is President of SCSN, which was one of the first Internet Service Providers ("ISPs") to operate in South Carolina and which has become one of the largest ISPs in South Carolina.

Regarding SCSI's financial resources, the record reveals that SCSI is incorporated under the laws of the State of South Carolina. Mr. Connelly testified that SCSI has sufficient financial resources to provide local services. Mr. Connelly stated that he is the sole shareholder of SCSI and that SCSI will be capitalized by him.

No other party offered any evidence in opposition to Mr.

Connelly's testimony. Based on the undisputed evidence of the record, the Commission finds that SCSI possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that SCSI will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Connelly specifically stated that SCSI will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that SCSI fully intends to meet the Commission's service standards. Furthermore, counsel for SCSI stated that SCSI would make certain changes to its tariff, as suggested by Staff, to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Mr. Connelly's testimony. Based on the undisputed testimony from Mr. Connelly, the Commission believes, and so finds, that SCSI will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that SCSI's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Connelly stated that SCSI's service offerings would not adversely impact the availability of affordable local exchange service. Mr. Connelly offered that certification of SCSI would serve the public interest by increasing competition in the telecommunications marketplace. Mr. Connelly offered that increased competition would benefit consumers by ensuring a wide

variety of services and prices, increasing customer choice, promoting efficient use of the network, and expanding the tax base and revenue sources for the State. No party offered any evidence that the provision of local exchange service by SCSI would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by SCSI will not adversely impact affordable local exchange service.

(4) The Commission finds that SCSI will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Connelly testified that SCSI will comply with the Commission's universal service requirements. No party disputed Mr. Connelly's testimony. Based on the undisputed evidence of record, the Commission finds that SCSI will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by SCSI "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Mr. Connelly offered that approval of SCSI to provide local telecommunications services will benefit consumers by providing increased choice, a wide variety of services and prices, and a unified source of telecommunications services for customers. Mr. Connelly's testimony was undisputed as no party offered any evidence that approval of SCSI's Application would adversely impact the public interest. Therefore, the Commission finds that approval

of SCSI's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by SCSI should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of SCSI for a Certificate of Public Convenience and Necessity authorizing SCSI to provide local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by SCSI and the SCTC is approved by this Commission, is binding upon SCSI and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. SCSI shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. SCSI shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which SCSI agreed.

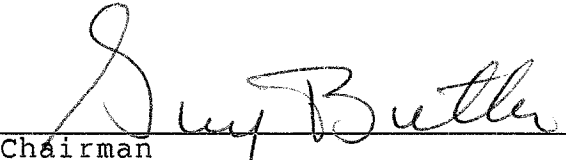
4. SCSI shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, SCSI shall provide to the Commission in writing the

name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. SCSi shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, SCSi shall promptly notify the Commission in writing if the representatives are replaced. SCSi is directed to comply with all Commission regulations unless expressly waived by the Commission.


5. SCSi shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230